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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14
15 In re FINISAR CORPORATION
DERIVATIVE LITIGATION

Master File No. C-06-07660-RMW

16 **STIPULATION AND**
17 **ORDER REGARDING CASE**
18 **MANAGEMENT CONFERENCE AND**
19 **HEARING DATE**

20 Courtroom: 6
Judge: The Hon. Ronald M. Whyte
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1 WHEREAS, the Court held a Case Management Conference in this action on September 14,
2 2011;

3 WHEREAS, at the September 14, 2011 Case Management Conference, pursuant to the
4 parties' agreement, the Court scheduled for December 9, 2011 (1) a Further Case Management
5 Conference, and (2) the hearing on motions to dismiss to be filed by the defendants;

6 WHEREAS, pursuant to the Court's September 16, 2011 Order, on October 7, 2011,
7 Plaintiffs filed a letter brief in support of their request that the Court order Finisar Corporation to
8 begin the production of relevant documents immediately, and defendants filed a letter brief in
9 opposition to plaintiffs' request on October 14, 2011;

10 WHEREAS, given the number of individuals named as defendants and the significant
11 expense involved in litigating this action, including the filing of briefs in support of and in
12 opposition to motions to dismiss, and in an effort to preserve judicial resources, the undersigned
13 counsel and parties (the "Parties") have met and conferred and agreed to engage in nonbinding
14 mediation before the Honorable Edward A. Infante (Ret.) (the "Mediation");

15 WHEREAS, the Parties expect that the Mediation will commence on or before January 18,
16 2012, and are working diligently to prepare for the Mediation, including by exchanging relevant
17 information;

18 WHEREAS, for the reasons discussed above and to facilitate the Mediation, justification and
19 good cause exists for (1) vacating the December 9, 2011 Further Case Management Conference and
20 motion to dismiss hearing date, (2) continuing until February 17, 2012 the date by which any
21 defendant must file a motion to dismiss Plaintiffs' Supplemental Second Amended Consolidated
22 Verified Shareholder Derivative Complaint ("SSAC") or other responsive pleading, and
23 (3) deferring a ruling on the parties' letter briefs regarding the production of documents until a ruling
24 is requested by any party.

25 NOW THEREFORE, SUBJECT TO THE APPROVAL OF THE COURT, THE PARTIES
26 HEREBY STIPULATE AS FOLLOWS:

27 (1) The Further Case Management Conference and motion to dismiss hearing scheduled
28 for December 9, 2011 are vacated;

(2) The date by which any defendant must file a motion to dismiss the SSAC or other responsive pleading is continued until February 17, 2012;

(3) The Court shall defer ruling on the parties' letter briefs until a ruling is requested by any party; and

(4) The Parties will advise the Court of the status of this action within 48 hours of the completion of the Mediation.

IT IS SO STIPULATED.

DATED: November 4, 2011

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1 DATED: November 4, 2011

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11 Attorneys for Nominal Defendant Finisar
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23 **ORDER**

24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25
26 Dated: ____331; 4233____

27 
HONORABLE RONALD M. WHYTE
28 UNITED STATES DISTRICT JUDGE

ECF CERTIFICATION

Pursuant to General Order No. 45, § X.B., the filing attorney attests that he has obtained concurrence regarding the filing of this document from the signatories to the document.

Dated: November 4, 2011

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By: /s/ Lloyd Winawer

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CERTIFICATE OF SERVICE

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on November 4, 2011.

Dated: November 4, 2011

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